

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JAMIE LEONARD,)
)
Plaintiff,)
) Cause No. 4:19-CV-00927-RLW
vs.)
)
ST. CHARLES COUNTY, ET AL.,)
)
Defendants.)

VIDEOTAPED DEPOSITION OF DONTE FISHER
TAKEN BY GARY K. BURGER, JR., ESQ.
ON BEHALF OF THE PLAINTIFF
FEBRUARY 11, 2020

REPORTED BY KAREN M. RUSSO
CERTIFIED COURT REPORTER MO No. 628
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REGISTERED PROFESSIONAL REPORTER

RUSSO REPORTING, LLC
1025 COMMODORE DRIVE
ST. LOUIS, MISSOURI, 63117
Russoreporting@gmail.com
www.RussoReportingLLC.com

1 talk about this with Scott or Harris?
2 A. No, sir.
3 Q. And what about any of your supervisors?
4 A. No, sir, they just basically go off of our --
5 Q. Go off your written report?
6 A. Yes, sir.
7 Q. Did you ever tell anybody that had you known
8 about his eye condition you wouldn't have used the OC
9 spray?
10 A. No, sir.
11 Q. Did you ever ask anybody how come I didn't know
12 about the eye condition?
13 A. No, sir.
14 Q. Did you ever know about the eye condition until
15 we started asking you about it in this depo?
16 A. Exactly. That's exactly when I found out. I
17 never knew.
18 Q. The first time we deposed, we deposed you in
19 August, that's the first -- you figured out from the
20 questions that we knew that?
21 A. Yes, sir, that's the very first I ever heard
22 that.
23 Q. Did anybody show you a medical record like I
24 did today where I can show you proof that they complained
25 about the eye condition?

1 A. No, sir.
2 Q. Did you have any reason to think that he was
3 detoxing or on any type of drugs?
4 A. Well, from the observation that I've had with
5 him, some of the body languages that he was giving off
6 and doing, I thought that he may have been on some type
7 of hallucinate or some type of drug.
8 Q. And I'm jumping around. When we deposed you,
9 had there been a planned use of force Ms. Theresa would
10 be the person you would have gone to to clear him for OC
11 spray or Taser use?
12 A. At that time, yes.
13 Q. All right. Now you guys have Tasers. You
14 didn't have them before, right?
15 A. No, sir.
16 Q. So now if you do a planned use of force with a
17 Taser or OC spray you would have gone to Ms. Theresa or
18 someone in their place and said is it okay to use this on
19 him, fair?
20 A. Fair.
21 Q. Did you -- when he -- so I know you went into
22 detail about -- have you had -- strike that. Have you
23 had -- if I say strike that it means I'm starting totally
24 over.
25 A. Uh-huh.

1 Q. Have you ever had another inmate where someone
2 said he had an eye condition and you didn't use OC spray?
3 A. No, sir.
4 Q. So I know you went into detail in the prior
5 deposition about what happened in the cell when the OC
6 spray was used.
7 A. Okay.
8 Q. You asked Mr. Leonard to put his hands -- turn
9 around and put his hands towards the door so you could
10 cuff him?
11 A. Yes.
12 Q. Have you looked at that video?
13 A. I think I did briefly but during --
14 Q. A while ago?
15 A. It was a while.
16 Q. He goes to the back of the cell and he puts his
17 forehead on the wall and kneels down?
18 A. Yes.
19 Q. And then you guys enter the cell, correct?
20 A. Yes.
21 Q. You're the one who's next to him?
22 A. Correct.
23 Q. You have a hand on him?
24 A. Yeah.
25 Q. Soft touch you call it?

1 A. Soft touch, yes.
2 Q. And then what did you say to him? Did you tell
3 him that -- Harris said that you said something to him
4 like if you disobey or if you get up we're going to spray
5 you. Did you say something like that to him?
6 A. I don't recall saying that, no.
7 Q. All right, I didn't think so. It's not in your
8 statement; is it?
9 A. No.
10 Q. What did you say to Leonard?
11 A. I was just telling him to be calm. Officer
12 Scott was going to do a cell search briefly and we'll be
13 I guess, you know, out of the unit, I'm assuming.
14 Q. All right. And then what happened?
15 A. And then he just started to rise.
16 Q. Okay.
17 A. And we went to try to have some type of
18 control, and he's a big guy and I couldn't hold him. And
19 then he started lunging towards Scott and, you know,
20 Scott's back was towards him so he didn't know. So then
21 that's when Scott then turned around and grab ahold to an
22 arm, I believe, and then Harris sprayed him.
23 Q. Were you ever in fear for your safety, your
24 physical safety?
25 A. Could you collaborate on that?